

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

24 MAY 1982

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The information submitted discloses that you incorporated on [REDACTED], to provide for the maintenance, administration, management, preservation, and control of [REDACTED] a subdivision in [REDACTED] County, [REDACTED]; to exercise all powers and perform all duties imposed upon you in accordance with the Declaration, including to fix, levy, collect and enforce payment by lawful means of all charges or assessments affecting the Project and to pay all expenses in connection therewith.

Every person or entity who is a record owner or a lessee under a written lease for a term of years from [REDACTED] of a portion of the property which comprises the Project, or any lessees under any tenant lease covering any portion of improvements situated in the Project, shall be members of your organization.

Your expenses for [REDACTED] showed costs for grounds maintenance of \$[REDACTED], water usage - irrigation of \$[REDACTED], and sprinkler system repairs of \$[REDACTED].

In your letter of [REDACTED], you state that the water system itself is owned by the individual property owners but there is a common meter and the city bills the Association. You also state that the landscape maintenance entails the mowing, fertilizing, shrubbery and tree care, and trash pick up of those common "greenbelt" areas adjacent to each side of the street with varying depths of twenty-five, thirty-five and fifty foot frontages. These areas are sold to the individual owners, title passing to them with sale of the property. However, the maintenance of the common areas is the responsibility of [REDACTED] and is so spelled out in the restricted covenants.

You also maintain streets and lighting available to the general public.

[REDACTED]

Your Declaration of Protective Covenants states that the Building Sites will be used solely for office, office park, multi-family, townhouse and/or condominium residential development, hotels, motor hotels, retail shopping centers, theatres, restaurants and such other uses as the Committee may determine.

Section 501(c)(4) of the Internal Revenue Code provides exemption for:

"Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare..."

Section 1.501(c)(4)-1 of the regulations provides, in part, as follows:

"(a)(2)(i) An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people or the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. *** The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit. ***"

Revenue Ruling 69-280, 1969-1 Cumulative Bulletin 152 held that a nonprofit organization formed to provide maintenance of exterior walls and roofs of homes of members who own Houses in a development is not exempt as a social welfare organization under section 501(c)(4) of the Code.

Revenue Ruling 74-17, 1974-1 Cumulative Bulletin 130, held that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, which is a State status, with membership assessments on the unit owners does not qualify for exemption.

Revenue Ruling 74-17, 1974-1 Cumulative Bulletin 131, held that to qualify for exemption as a social welfare organization, the organization must serve the community and have a reasonable recognizable relationship to an activity which is identified as governmental. It must not conduct activities which are for the exterior maintenance of private residences and the common areas or facilities it owns and maintains must be for the use of the general public.

[REDACTED] [REDACTED] [REDACTED]

Based on the information presented, we have concluded that you do not meet the requirements for exemption as a social welfare organization described in section 501(c)(4) of the Code. You are maintaining the private property of the various owners and lessees of property in the project in [REDACTED]. Such maintenance of private property is prohibited in both Revenue Ruling 69-250 and 74-49 because it serves the private interests of the owners. Furthermore, you may be involved in condominium or townhouse activity, as indicated by the Restrictive Covenants. Revenue Ruling 74-17 held that organizations that provide maintenance for the common property of condominiums and townhouse projects are not social welfare organizations as described in section 501(c)(4).

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(4) of the Code, and you are required to file income tax returns on Form 1120.

As a property owners' association, you may qualify for treatment under section 528 of the Code. In this letter we are not ruling on the question of whether you qualify for treatment under section 528, however, if you believe you qualify, you should file Form 1120-H when due.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 992 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, you should return Form 6018 in the enclosed self-addressed envelope as soon as possible. You should also file the enclosed Federal income tax return within 30 days with the Chief, Employee Plan/Exempt Organization Division, Internal Revenue Service, Dallas, Texas 75242.

Sincerely,

[REDACTED]
Director